

To: Ana [abaptista@ironboundcc.org]
Cc: Debbie Mans [debbie@nynjbaykeeper.org]; ouglas Sarno [doug@forumfg.com]; kluesner.david@epamail.epa.gov" [kluesner.david@epamail.epa.gov]
Bcc: []
From: CN=Ray Basso/OU=R2/O=USEPA/C=US
Sent: Fri 1/18/2013 4:42:10 PM
Subject: Re: Passaic River Clean-up Odor Issues
Kluesner.Dave@epamail.epa.gov
<http://www.epa.gov/region2>
<http://blog.epa.gov/greeningtheapple/>
doug@forumfg.com
abaptista@ironboundcc.org
debbie@nynjbaykeeper.org
doug@forumfg.com
abaptista@ironboundcc.org
debbie@nynjbaykeeper.org
doug@forumfg.com
Basso.Ray@epamail.epa.gov
doug@forumfg.com
abaptista@ironboundcc.org
doug@forumfg.com
debbie@nynjbaykeeper.org
doug@forumfg.com
abaptista@ironboundcc.org
Basso.Ray@epamail.epa.gov
debbie@nynjbaykeeper.org
doug@forumfg.com
abaptista@ironboundcc.org
debbie@nynjbaykeeper.org
Ed.Choromanski@dep.state.nj.us
abaptista@ironboundcc.org
abaptista@ironboundcc.org
Wolfgang.Skacel@dep.state.nj.us
irenekropp@comcast.net
David.Sweeney@dep.state.nj.us
Monica.Marchitelli@dep.state.nj.us
Vanessa.Day@dep.state.nj.us
[\(609\)-633-7288](tel:(609)-633-7288)
[\(609\)-292-9938](tel:(609)-292-9938)
ed.choromanski@dep.state.nj.us
[973-817-7013](tel:973-817-7013) x217
[732-888-9870](tel:732-888-9870) x2
debbie@nynjbaykeeper.org

Yeah Doug we missed you and Dave too. But this stuff happens from time to time and you just have to deal with it. I spent about an hour after the meeting just talking to a number of the residents who had to tell their story. It is a sad situation, and worse, it will likely happen again. I have a bit of a to do list from my various conversations but that's ok too.

-----Ana <abaptista@ironboundcc.org> wrote: -----
To: Douglas Sarno <doug@forumfg.com>, Debbie Mans <debbie@nynjbaykeeper.org>, "kluesner.david@epamail.epa.gov" <kluesner.david@epamail.epa.gov>, Ray Basso/R2/USEPA/US@EPA
From: Ana <abaptista@ironboundcc.org>
Date: 01/18/2013 10:04AM
Subject: Re: Passaic River Clean-up Odor Issues

Doug, I have a whole new respect for what you do and you're never allowed to miss a meeting again unless you can clone yourself. Little did we know that the Bongiorno's would be the least of our issues. But I do feel for these folks in Lyndhurst who keep getting flooded endlessly, it's a very complicated issue

Doug - we told the cag members we would send out an email trying to gauge people's preferences for either keeping or moving the February 14th meeting, perhaps you can send that out when you have a chance - 2/21 is no good for lots of folks in Newark because the incinerator is in a hearing at city hall so my preference is to keep the 2/14 date but if others want to move it that's ok with me

Thanks
Ana

Sent from my iPhone

On Jan 17, 2013, at 4:25 PM, Kluesner.Dave@epamail.epa.gov wrote:
Doug, sorry you're not feeling well. Not wise to travel and potentially infect others on train, in CAG meeting. Checking in briefly from Chile. Read the emails and wanted to weigh in to say that there is no reasonable expectation of privacy in a public place, e.g., tonight's CAG meeting open to the public. As such the Bonjornos can film with the express written consent of those in attendance. We have had the CAG meetings recorded in audio before, Lenny takes photos from time to time, no consent is given. At other CAG meetings, we have had people record audio and video. Never been an issue. Record away as long as the recording is announced at the start of the meeting and that people are reminded of the recording during breaks or after the meeting that potential side bar discussions may be picked up, etc. Good luck.

David Kluesner - Public Affairs
U.S. EPA - Manhattan Office
290 Broadway, 26th Floor / NY, NY 10007
212.637.3653
<http://www.epa.gov/region2>
<http://blog.epa.gov/greeningtheapple/>

-----Elizabeth Butler/R2/USEPA/US wrote: -----

To: Douglas Sarno <doug@forumfg.com>
From: Elizabeth Butler/R2/USEPA/US
Date: 01/17/2013 01:42PM
Cc: Ana BAPTISTA <abaptista@ironboundcc.org>, Dave Kluesner/R2/USEPA/US@EPA, Debbie Mans <debbie@nynjbaykeeper.org>, Ray Basso/R2/USEPA/US@EPA, Stephanie Vaughn/R2/USEPA/US@EPA
Subject: Re: Passaic River Clean-up Odor Issues

We have one and we'll bring it to the meeting to record it for you. Feel better, Doug. You'll be missed!

Douglas Sarno ---01/17/2013 10:26:28 AM---Hi Ray Yes, of course they can bring up the odor issues in relation to 10.9, and I agree about the f

From: Douglas Sarno <doug@forumfg.com>
To: Ray Basso/R2/USEPA/US@EPA
Cc: Ana BAPTISTA <abaptista@ironboundcc.org>, Dave Kluesner/R2/USEPA/US@EPA, Debbie Mans <debbie@nynjbaykeeper.org>, Elizabeth Butler/R2/USEPA/US@EPA, Stephanie Vaughn/R2/USEPA/US@EPA
Date: 01/17/2013 10:26 AM
Subject: Re: Passaic River Clean-up Odor Issues

Hi Ray

Yes, of course they can bring up the odor issues in relation to 10.9, and I agree about the filming--saying no can generally do more harm than good.

A few times last year David brought a digital recorder to the meeting, does anyone have access to that? I would like to be able to listen the the meeting and create the summary afterward if possible

good luck tonight,

thanks
Doug

Doug Sarno
301-798-2713 office
703-927-6265 cell
doug@forumfg.com

On Jan 17, 2013, at 10:07 AM, Basso.Ray@epamail.epa.gov wrote:

Doug, sorry to hear your not feeling well, hope you feel better soon. I agree that we can say that we are not prepared to discuss the Phase 1 odor issues until we meet with DEP, but they want to discuss their concerns as it relates to odors/emissions as it relates to the 10.9 removal action. In my view that would be appropriate for this venue. Regarding the filming of the meeting, while I don't think it adds any value and may actually detract from the natural discourse that normally takes place, I guess there is little we can do and the more we object the more it may increase tensions. But I'll leave that up to the CAG to decide how to proceed. Thanks.

-----Douglas Sarno <doug@forumfg.com> wrote: -----

To: Ana BAPTISTA <abaptista@ironboundcc.org>

From: Douglas Sarno <doug@forumfg.com>

Date: 01/17/2013 09:36AM

Cc: Ray Basso/R2/USEPA/US@EPA, Debbie Mans <debbie@nynjbaykeeper.org>, Dave Kluesner/R2/USEPA/US@EPA, Elizabeth Butler/R2/USEPA/US@EPA, Stephanie Vaughn/R2/USEPA/US@EPA

Subject: Re: Passaic River Clean-up Odor Issues

Hi guys, I don't think I can make it. I am really not well and there is no way that traveling and being in a room full of people make sense. I am really not happy but don't see any way out.

On the videotaping. basically there is no overriding federal law and local and state laws vary. In general it comes down to whether an individual can have an "expectation of privacy" where they are, so any filming in a clearly public place would be ok. If people are being filmed in such a way as they are speaking and recognizable, filmmakers are generally supposed to get a release. but many do not. If people expressly ask not to be filmed then they should be provided that respect. On public property, there is generally no expectation of privacy.

I think up front it needs to be made clear that the odor issue is not on the agenda. A short statement about what the odor issue entails and the CAGs non-role in the issue might be appropriate but then just don't even go there. This is not an EPA meeting, it is a CAG meeting and we have nothing to discuss on the odor issue. We are waiting for the results of an EPA-State meeting, period. Make it clear what we are there for and stick to the agenda. Announce that the meeting is being filmed and leave it at that.

Doug

Doug Sarno
301-798-2713 office
703-927-6265 cell
doug@forumfg.com

On Jan 17, 2013, at 9:19 AM, Ana BAPTISTA <abaptista@ironboundcc.org> wrote:
I'm not comfortable with it but I'm not sure we can stop them - they claim they can film anything they want in a public venue without any permission granted??? Not sure if this is true or not?

Maybe we should ask the CAG members at the start and if they vote no - we ask them not to - but if they refuse to stop - we'd have to call in the guards to remove them??

I'd rather not draw more attention to them than necessary

Doug - are you going to make it to tonight's meeting??

Ana

On Thu, Jan 17, 2013 at 7:57 AM, <Basso.Ray@epamail.epa.gov> wrote:
Debbie, thanks for sharing Ed's response, we will be meeting with Ed and his team next Wednesday. Fyi, Stephanie, just received an email from the Bongiorno's stating among other things that they intend to film the CAG meeting tonight in Lyndhurst. Is this something that you guys are comfortable with going forward ?

We plan to film the CAG Meeting on 1.17.13 in Lyndhurst and address the importance of trapping and filtering all emissions associated with the Lyndhurst and future dredging and dewatering processes.

-----Debbie Mans <debbie@nynjbaykeeper.org> wrote: -----
To: Dave Kluesner/R2/USEPA/US@EPA, Alice Yeh/R2/USEPA/US@EPA, Ray Basso/R2/USEPA/US@EPA, Elizabeth Butler/R2/USEPA/US@EPA, Stephanie Vaughn/R2/USEPA/US@EPA, Douglas Sarno <doug@forumfg.com>, Ana <abaptista@ironboundcc.org>
From: Debbie Mans <debbie@nynjbaykeeper.org>
Date: 01/16/2013 09:01PM
Subject: Fwd: Passaic River Clean-up Odor Issues

Hi EPA Folks -- I am not sure if Ana shared this with you already, but she emailed NJDEP twice re the odor issue and received the following response.

----- Forwarded message -----

From: Choromanski, Ed <Ed.Choromanski@dep.state.nj.us>
Date: Wed, Jan 16, 2013 at 3:39 PM
Subject: Passaic River Clean-up Odor Issues
To: "abaptista@ironboundcc.org" <abaptista@ironboundcc.org>
Cc: "Skacel, Wolfgang" <Wolfgang.Skacel@dep.state.nj.us>, "Kropp, Irene" <irenekropp@comcast.net>, "Sweeney, David" <David.Sweeney@dep.state.nj.us>, "Marchitelli, Monica" <Monica.Marchitelli@dep.state.nj.us>, "Day, Vanessa" <Vanessa.Day@dep.state.nj.us>

Ms. Baptista:

Your e-mail message to Commissioner Martin and Deputy Commissioner Kropp dated January 2, 2013 related to odors that are alleged to have occurred during the Phase I of the Passaic River Clean-up have been forwarded to me for response. As the Director of the Air and Hazardous Materials Compliance & Enforcement program, odor investigations fall under my purview.

The Department was investigating alleged odor complaints reported to the Departments hotline by Mr. & Mrs. Bongiorno that commenced around the same time of the Phase I Passaic River clean up. During the investigation of each complaint, the Department was not able to identify the source of the odors. However, in early July, 2012, the Department, after narrowing the location, suspected the odors were emanating from the Phase I clean up site. The next day inspectors were able to get access to the site and even though the Phase I clean-up had been completed, the NJDEP inspectors determined that the odors were similar to odors they previously detected and that the odors were coming from equipment still on site, that was used during the clean-up. However, we were never able to confirm that the odors complaints alleged by Mr. and Mrs. Bongiorno were the same odors that occurred while the Phase I clean-up was actively being conducted.

The Department has discussed these odor issues with EPA staff and is working on procedures to improve the communication between the agencies for future Phases of the Passaic River clean-up. These procedures will determine if clean-up work can continue if odor complaints are received and verified from that clean-up location or operations.

I trust that I have provided you with sufficient information to satisfy your request. If you have any questions on this issue, please contact me.

Edward M. Choromanski

Director

Air & Hazardous Materials Compliance & Enforcement

(609)-633-7288 – Phone

(609)-292-9938 - Fax

ed.choromanski@dep.state.nj.us

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Ana I. Baptista, Ph.D.
Environmental & Planning Projects Director
Ironbound Community Corp
317 Elm Street
Newark, NJ 07105
973-817-7013 x217

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Debbie Mans, Executive Director & Baykeeper
NY/NJ Baykeeper
732-888-9870 x2
debbie@nynjbaykeeper.org

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Ana I. Baptista, Ph.D.
Environmental & Planning Projects Director
Ironbound Community Corp
317 Elm Street
Newark, NJ 07105
973-817-7013 x217